IN THE HIGH COURT OF JUDICIATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.657 OF 1998

The Commissioner of Income-tax,
Bombay City-III, Bombay .. Applicant.

V/s.

M/s.Emmes Metals Pvt.Ltd. .. Respondent.

Mr.Parag Vyas with Mr.Ashok Kotangale & Mr.A.S. Rao for the applicant.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 18TH OCTOBER, 2005.

P.C. :

1. Heard the learned counsel for the applicant. The Tribunal has referred following questions for the opinion of this Court reading as under :-

> 1. Whether in the facts and in the circumstances of the case, the Tribunal was right in law in holding that in the case of employee-directors, the provisions of section 40(c) and not those of section 40A(5) of the Act, apply ?
>
> 2. Whether on the facts and in the circumstances of the case, the Tribunal was right in undertaking an appeal on the levy of interest u/s.215 and in further holding that no interest is chargeable under the said section ?

2. As regards Question No.1, the learned counsel for the applicant-revenue fairly submits that the above question has already been answered by the Division Bench of this Court in the case of CIT V/s. Hico Products Pvt. Ltd. [(1993) 201 ITR 567 (Bom)]

in favour of the assessee and against the revenue.

3. So far as Question No.2 is concerned, the same is consequential in nature and, therefore, it is not necessary to answer the same.

4. In this view of the matter, question No.1 stands answered in affirmative for the reasons stated in the case cited supra. Reference, accordingly stands disposed of with no order as to costs.

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